

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

AMANDA JONES,

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES EAST, LP
AND JOHN DOES NOS 1-10,

Defendants.

_____ /

NOTICE OF REMOVAL

COMES NOW WAL-MART STORES EAST, LP, named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant Wal-Mart Stores East, LP in the State Court of Bibb County, Georgia, which is within the Middle Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 85922. Plaintiff's claims against Defendant include claims of negligence.

2.

Plaintiff filed the Complaint on or about April 22, 2016. Defendant Wal-Mart Stores East, LP received service of summons and a copy of the Complaint on April 29, 2016. Defendant WAL-MART STORES EAST, LP files this Notice of Removal within thirty (30) days after Plaintiff's counsel cancelled Plaintiff's deposition on February 22, 2017 due to Plaintiff having additional treatment, including a discogram and a pending scheduled lumbar fusion surgery (a copy of Plaintiff's counsel's February 22, 2017 email to Defendant's counsel's cancelling the deposition and Defendant's counsel's reply is attached as Exhibit "A"). Defendant Wal-Mart Stores East, LP files this Notice of Removal within thirty (30) days after the February 22, 2017 emails from which it was first ascertained that the case became removable. 28 USC § 1446.

3.

Defendant Wal-Mart Stores East, LP is a Delaware limited partnership, of which WSE Management, LLC is the only general partner, and WSE Investment, LLC is the only limited partner. The sole member of WSE Management, LLC and of WSE Investment, LLC is Wal-Mart Stores East, LLC, and the sole member of Wal-Mart Stores East, LLC is Wal-Mart Stores, Inc. Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or

immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 702 SW 8th Street, Bentonville, Arkansas 72716.

4.

Amanda Jones is a citizen of the State of Georgia.

5.

Complete diversity of citizenship exists between Plaintiff and Defendant.

6.

Plaintiff claims a fractured coccyx and low back pain, medical and future surgical bills in excess of \$75,000, and pain and suffering. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

7.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

8.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Bibb County, Georgia for the above-styled case.

9.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

10.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

11.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Bibb County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant Wal-Mart Stores East, LP prays that the above-captioned lawsuit be removed to the United States District Court for the Middle District of Georgia, Macon Division.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia Bar No. 447088

/s/ Jennie E. Rogers
Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E., Suite 500
Atlanta GA 30326-3240
(404) 266-9171
(404) 364-3138 (Fax)
jrogers@mmatllegal.com

The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie E. Rogers
Jennie E. Rogers

CERTIFICATE OF SERVICE

This is to certify that on March 13, 2017, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie E. Rogers
Jennie E. Rogers
Georgia Bar No. 612725
Attorneys for Defendant
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 266-9171
jrogers@mmatllegal.com